

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
) NO. 4:17CR132(JAR/DDN)-3
vs.)
DEVONTE HOLLIDAY)
)
Defendant.)

**MOTION TO EXAMINE CELL PHONE FOR DISCLOSURE OF ALL TEXT
MESSAGES AND SUPPORTING MEMORANDUM**

COMES NOW, defendant DEVONTE HOLLIDAY, by and through counsel, Phillip A. Kramer, and pursuant to Federal Rules of Evidence 1001 and 1006 request This Court order the Government to provide counsel and Mr. Holliday access to the cell phone seized from Mr. Holliday at the time of arrest, at and for a reasonable time and place, to review and copy, if necessary, the entire contents of the cell phone.

This is necessary in order to properly 1) prepare a defense for trial, 2) in order to receive a fair and impartial trial, and 3), to be able to examine all of the evidence against him, all as guaranteed by the 5th and 6th Amendment of the U.S. Constitution.

1. On August 17, 2017, the Government provided counsel a copy of text messages alleged to be from Devonte Holliday's cell phone from a period four months (March, 2017) after the date of the alleged occurrence (November 26, 2016). (See attached Exhibit A-1 and A-2).

2. It is unclear if this copy includes all the text messages on the cell phone or if they were taken out of context.

MEMORANDUM IN SUPPORT OF MOTION

FRE 1001(d) defines "An "original" of a writing or recording means the writing or recording

itself....” “For electronically stored information “original” means any printout - or other output readable by sight - if it accurately reflects the information.”

Further FRE 1006 provides, “The proponent may use a summary, ... to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The Proponent must make the originals or duplicates available for examination or copying or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them at court.”

In order for counsel to determine if the printouts of the text messages (see Exhibits A-1 and A-2) accurately reflect the information, it is necessary to examine the entire contents of the cell phone.

WHEREFORE, Defendant Holliday request this Court order the Government: provide counsel and Mr. Holliday access to the cell phone seized from Mr. Holliday at the time of arrest, at and for a reasonable time and place, to review and copy, if necessary, the entire contents of the cell phone.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A true and complete copy of this document was served this 28th day of August , 2017, on:
Devonte Holliday
via U. S. mail.

A true and complete copy of this document was electronically filed on this 28th day of August, 2017 with the Clerk of the Court using the CM/ECF system which will send notification of such filing to: Thomas C. Albus , Assistant U.S. Attorney and other attorneys of record.

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